

Article IX Water Resource District

300-38. PURPOSE OF DISTRICT

The purpose of this Water Resource District is to:

- A.** promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Salisbury;
- B.** preserve and protect existing and potential sources of drinking water supplies;
- C.** conserve the natural resources of the Town; and
- D.** prevent temporary and permanent contamination of the environment.

300-39. SCOPE OF AUTHORITY

The Water Resource District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Existing, non-conforming uses, buildings, etc. will not be subject to this authority until such time a substantial change of conditions or use occurs. Applicable activities and uses in a portion of one of the underlying zoning districts that falls within the Water Resource District must additionally comply with the requirements of the Water Resource District Bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Water Resource District.

300-40. DEFINITIONS

- A. *Aquifer*:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
- B. *CMR*:** Code of Massachusetts Regulations.
- C. *DEP*:** Massachusetts Department of Environmental Protection.
- D. *Water Resource District*:** Those land area(s) designated on a map adopted pursuant to this bylaw that provide recharge to an existing or planned public drinking water supply well. The Water Resource District includes all areas designated as a Zone II and approved by the DEP.
- E. *Hazardous Material*:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c.21C and 21E and 310 CMR 30.00.
- F. *Hazardous Waste*:** Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.
- G. *Impervious Surface*:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

- H. *Landfill*: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.
- I. *M.G.L.*: Massachusetts General Law
- J. *Petroleum Product*: Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.
- K. *Non-sanitary wastewater*: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).
- L. *Open Dump*: A facility operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or state regulations and criteria for solid waste disposal.
- M. *Potential Drinking Water Sources*: Areas that could provide significant potable water in the future.
- N. *Recharge Areas*: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include DEP approved Zone I, Zone II, or Zone III areas.
- O. *Septage*: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.
- P. *Sludge*: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility
- Q. *Treatment Works*: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.
- R. *Very Small Quantity Generator*: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.
- S. *Waste Oil Retention Facility*: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c.21. s.52A.
- T. *Zone I*: The DEP designated protective radius around a public water system well or well-field.
- U. *Zone II*: The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00.
- V. *Zone III*: The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface drainage area as determined by topography is commonly coincident with the groundwater drainage area and will be used to delineate

Zone III. In some locations, where surface and groundwater drainage is not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

300-41. ESTABLISHMENT AND DELINEATION OF WATER RESOURCE DISTRICT

For the purposes of this District, there are hereby established within the Town of Salisbury certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of 1 inch to 1100 feet and is entitled 'Water Resource District Overlay, Salisbury, MA' dated April 10, 2009. This map is hereby made a part of the Town of Salisbury zoning bylaw and is on file in the Office of the Town Clerk, Planning Board, and Zoning Board of Appeals.

300-42. DISTRICT BOUNDARY DISPUTES

- A. If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.
- B. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the District boundary with respect to a parcel(s) of land is uncertain. Amendments to the Water Resource District require Town meeting approval.
- C. Where the boundary line of the Water Resource District divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the Water Resource District.

300-43. PERMITTED USES

The following uses are permitted within the Water Resource District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- A. conservation of soil, water, plants, and wildlife;
- B. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- C. foot, bicycle and/or horse paths, and bridges;
- D. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- E. enlargement of any existing structure, subject to Section 300-44 and Section 300-45 of this bylaw;
- F. residential and commercial development permitted in the underlying district provided that not more than 15% of the building lot is rendered impervious, subject to Section 300-44 and Section 300-45 of this bylaw;
- G. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 300-44 and Section 300-45 of this bylaw;

- H. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.
- I. maintenance, repair and replacement of any existing structure or paved area within the same footprint.

300-44. PROHIBITED USES

The following uses are prohibited within the Water Resource District:

- A. landfills and open dumps as defined in 310 CMR 19.006;
- B. automobile graveyards and junkyards, as defined in M.G.L. c.140B, s.1;
- C. landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L.c. 21 s.26 through s.53; M.G.L.c. 111 s.17; M.G.L. c.83, s.6 and s.7, and regulations promulgated thereunder;
- D. facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c.21C and 310 CMR 30.00, except for:
 - 1. very small quantity generators as defined under 310 CMR 30.000;
 - 2. household hazardous waste centers and events under 310 CMR 30.390;
 - 3. waste oil retention facilities required by M.G.L. c. 21, s.52A;
 - 4. water remediation treatment works approved by DEP for the treatment of contaminated waters
- E. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- F. storage of liquid hazardous materials, as defined in M.G.L.c. 21E, and/or liquid petroleum products unless such storage is:
 - 1. above ground level and on an impervious surface; and
 - 2. either in container(s) OR above ground tank(s) within a building OR outdoors in covered container(s) OR above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers OR 110% of the largest container's storage capacity, whichever is greater.
- G. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- H. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- I. storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- J. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works; or unless the

substances which are removed are redeposited within 45 days on site to achieve a final grade greater than four feet above the historical high water mark.

- K. discharge to the ground of non sanitary wastewater including industrial and commercial process waste water, except:
 - 1. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - 2. treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);and
 - 3. publicly owned treatment works.
- L. stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district;
- M. storage of commercial fertilizers, as defined in M.G.L. c.128, s.64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

300-45. USES AND ACTIVITIES REQUIRING A SPECIAL PERMIT

The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA). Under such conditions as they may require;

- A. enlargement of existing uses that do not conform to the Water Resource District;
- B. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 300-44). Such activities shall require a special permit to prevent contamination of groundwater;
- C. any use that will render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

Existing, non-conforming uses and buildings will not be subject to this authority until such time a substantial change of conditions or use occurs.

300-46. PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT

- A. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, Conservation Commission, and Department of Public Works that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards, departments or commissions in its decision.

- B. Upon receipt of the special permit application, the applicant shall transmit one copy to the Board of Health, Conservation Commission, and Department of Public Works. Failure to respond in writing within 35 days of receipt shall indicate approval, or no desire to comment. The necessary number of copies of the application shall be furnished by the applicant.
- C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 300-44 of this bylaw, and any regulations or guidelines adopted by the SPGA. The proposed use must:
 - 1. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource District; and
 - 2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
 - 3. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town of Salisbury.
 - 4. The applicant shall file 7 copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
 - a. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
 - b. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan shall include:
 - i. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - ii. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - iii. evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.00; and
 - iv. proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
 - 5. The SPGA shall hold a hearing, in conformity with the provision of M.G.L. c.40A s. 9, within 65 days after the filing of the application.
 - 6. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in M.G.L. c.40A s.11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit.

300-47. ENFORCEMENT

- A. Written notice of any violations of this bylaw shall be given by the Zoning Enforcement Officer to the responsible person as soon as possible after detection of a violation or a continuing

violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

- B. A copy of such notice shall be submitted to the Town Planning Board, Board of Health, Conservation Commission, and Department of Public Works,. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

300-48. SEVERABILITY

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.